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Federal Communications Commission

DA 99-2363

DISPATCHED BY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Request for Review	)	
of the Decision of	)	
the Universal Service Administrator by	)	
	)	
Grant School District #3	)	File No. SLD 10474
John Day, Oregon	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45 ✓
	)	
Changes to the Board of Directors	)	CC Docket No. 97-21
of the National Exchange Carrier	)	
Association, Inc.	)	

**ORDER**

Adopted: October 29, 1999

Released: October 29, 1999

By the Common Carrier Bureau:

1. The Bureau has under consideration a Letter of Appeal filed by Grant School District #3 (Grant) on June 1, 1999, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Grant seeks review of the SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.<sup>1</sup> For the reasons set forth below, we grant the Letter of Appeal to the extent provided herein.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>2</sup>

3. By letter dated January 26, 1999, the SLD denied Grant's request for discounts. Grant appealed the SLD's decision by letter dated February 8, 1999. On April 29, 1999, the

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<sup>1</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>2</sup> 47 C.F.R. §§ 54.502, 54.503.

SLD affirmed its initial funding decision. The Administrator's Decision on Appeal indicated that services listed by Grant as dedicated access/Internet access included some internal connection services. It further indicated that, where a particular funding request included some internal connections, the entire funding request was recategorized by SLD as internal connection services so as to "avoid the possibility of treating priority two services (internal connections) as priority one services (telecommunications, dedicated and Internet access services)." Because internal connections are funded only when a discount level of 70% or above has been shown, these services could not be supported for this funding period.<sup>3</sup>

4. In its request for review of the SLD's decision that is now before us, Grant states that it relied on information provided by the SLD directing it to classify bundled Internet services as Internet access on its FCC Form 471. Grant also cites to paragraph 445 of the *First Report and Order* to support its position that it should receive discounts for the cost of "bundled" services.<sup>4</sup> Grant argues that, because of the misinformation provided by SLD, the amount representing Internet access should be reclassified as such, and should be deemed eligible for discounts. In addition, Grant maintains that its discount level should have been calculated as 65% instead of SLD's 60% finding.

5. In *Williamsburg-James City*,<sup>5</sup> the Commission determined that, in cases where, as here, an FCC Form 471 was submitted before the establishment of the Commission's rules of priority in the *Fifth Reconsideration Order*,<sup>6</sup> applicants could not have been aware of the need to segregate carefully their service requests. Consequently, the Commission held that, in appeals addressing such circumstances, applications should be remanded to SLD for reprocessing, with priority one and priority two services being considered separately on their own merits. We, therefore, remand Grant's application to SLD and direct SLD to issue a new funding commitment decision letter based on the originally submitted FCC Form 471 and any further consultations with the applicant that may be necessary.

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<sup>3</sup> Letter from the Schools and Libraries Division, Universal Service Administrative Company to Robert A. Baty, Grant County Education Service District, dated April 29, 1999 (Administrator's Decision on Appeal).

<sup>4</sup> *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 9002 (1997), para. 425, as corrected by, Errata, CC Docket No. 96-45 (rel. June 4, 1997), *aff'd in part, part, Texas Office of Pub. Util. Counsel v. FCC*, 1999 WL 556461 (5th Cir. 1999) (*First Report and Order*).

<sup>5</sup> *Request for Review of the Decision of the Universal Service Administrator by Williamsburg-James City Public Schools*, CC Docket Nos. 96-45, 97-21, Order, FCC 99-298 (rel. Oct. 15, 1999) (*Williamsburg-James City*).

<sup>6</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order, 13 FCC Rcd 14915, 14938 (1998) (*Fifth Reconsideration Order*), paras. 36-37.

6. As noted above, in the *Fifth Reconsideration Order*, the Commission established rules to govern how discounts will be granted when available funding is less than total demand.<sup>7</sup> These rules provide that requests for telecommunications and Internet access services for all discount categories shall receive first priority for available funds. When sufficient funds are not available to fund all requests for discounts on internal connections, the Administrator shall allocate funds for discounts to schools beginning with those applicants at the ninety percent discount level and, to the extent funds remain, continue to allocate funds for discounts to applicants at each descending single discount percentage, *e.g.*, eighty-nine percent, eighty-eight percent, and so on. For the first funding year, the Administrator allocated funds to cover discounts down to the seventy percent level.<sup>8</sup> Thus, we do not need to address Grant's claim that its reimbursement level was miscalculated, because, even if Grant's assessment of its reimbursement rate is correct, it still falls below seventy percent and thus Grant would not be eligible for internal connections discounts.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722 (a), that the Letter of Appeal filed by Grant School District #3, John Day, Oregon, on June 1, 1999 IS GRANTED to the extent indicated herein.

8. IT IS FURTHER ORDERED that the Administrator IS DIRECTED to implement the decision herein.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma  
Deputy Chief, Common Carrier Bureau

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<sup>7</sup> *Id.*

<sup>8</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twelfth Order on Reconsideration, 1999 WL 343067, FCC 99-121 (1999) (*Twelfth Reconsideration Order*), para. 5.